

**Assembly Bill No. 564**

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Passed the Assembly September 11, 2013

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*Chief Clerk of the Assembly*

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Passed the Senate September 10, 2013

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 34191.4 and 34191.5 of the Health and Safety Code, relating to community redevelopment.

## LEGISLATIVE COUNSEL'S DIGEST

AB 564, Mullin. Community redevelopment: successor agencies.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations, as defined, perform obligations required pursuant to any enforceable obligation, dispose of all assets of the former redevelopment agency, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities. Existing law requires each successor agency to have an oversight board to approve certain actions of the successor agency, including the approval of an enforceable obligation. Existing law requires the Department of Finance to review the actions of an oversight board. Existing law prescribes when an action of an oversight board shall become effective, subject to approval by the Department of Finance.

Existing law provides that certain loan agreements entered into between a redevelopment agency and the city, county, or city and county that created the redevelopment agency are deemed enforceable obligations. Existing law provides that bond proceeds derived from bonds issued by a redevelopment agency on or before December 31, 2012, are to be used for the purposes for which the bonds are sold. Existing law provides that enforceable obligations may be satisfied by the creation of reserves for projects that are the subject of the enforceable obligation, as specified. Existing law provides that an expenditure made pursuant to these provisions constitutes the creation of excess bond proceeds obligations.

This bill would prohibit the Department of Finance from taking any future action to modify the enforceable obligations described above following the effective date of the approval of those

enforceable obligations after review by the oversight board and the department.

Existing law establishes a Community Redevelopment Property Trust Fund, administered by the successor agency, to serve as the repository of the former redevelopment agency's real properties. Existing law requires the successor agency to prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. Existing law provides for the transfer of property, and the liquidation of property and the use of proceeds, in a specified manner.

This bill would prohibit the Department of Finance from taking any future action to modify a transfer of property, or the liquidation of property and the use of proceeds, as described above, if the transfer, liquidation, or use of proceeds is consistent with the approved plan of the successor agency.

This bill would incorporate additional changes to Sections 34191.4 and 34191.5 of the Health and Safety Code, proposed by AB 662, that would become operative only if this bill and AB 662 are chaptered and become effective January 1, 2014, and this bill is chaptered last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 34191.4 of the Health and Safety Code is amended to read:

34191.4. The following provisions shall apply to any successor agency that has been issued a finding of completion by the Department of Finance:

(a) All real property and interests in real property identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5 shall be transferred to the Community Redevelopment Property Trust Fund of the successor agency upon approval by the Department of Finance of the long-range property management plan submitted by the successor agency pursuant to subdivision (b) of Section 34191.5, unless that property is subject to the requirements of any existing enforceable obligation.

(b) (1) Notwithstanding subdivision (d) of Section 34171, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created by the

redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.

(2) If the oversight board finds that the loan is an enforceable obligation, the accumulated interest on the remaining principal amount of the loan shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund. The loan shall be repaid to the city, county, or city and county in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund. The annual loan repayments provided for in the recognized obligations payment schedules shall be subject to all of the following limitations:

(A) Loan repayments shall not be made prior to the 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this subdivision and paragraph (7) of subdivision (e) of Section 34176 combined shall be equal to one-half of the increase between the amount distributed to the taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012–13 base year. Loan or deferral repayments made pursuant to this subdivision shall be second in priority to amounts to be repaid pursuant to paragraph (7) of subdivision (e) of Section 34176.

(B) Repayments received by the city, county, or city and county that formed the redevelopment agency shall first be used to retire any outstanding amounts borrowed and owed to the Low and Moderate Income Housing Fund of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund and shall be distributed to the Low and Moderate Income Housing Asset Fund established by subdivision (d) of Section 34176.

(C) Twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the Low and Moderate Income Housing Asset Fund, after all outstanding loans from the Low and Moderate Income Housing Fund for purposes of the Supplemental Educational Revenue Augmentation Fund have been paid.

(3) Following the effective date of an oversight board's approval of an enforceable obligation pursuant to this subdivision, as determined pursuant to subdivision (h) of Section 34179, the oversight board's action shall be final and may be relied upon by all public and private entities, and, except for an amendment to an enforceable obligation initiated by a successor agency, may not be modified or reversed by any future action of the Department of Finance.

(c) (1) Bond proceeds derived from bonds issued on or before December 31, 2010, shall be used for the purposes for which the bonds were sold.

(2) (A) Notwithstanding Section 34177.3 or any other conflicting provision of law, bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations shall thereafter be expended in a manner consistent with the original bond covenants. Enforceable obligations may be satisfied by the creation of reserves for projects that are the subject of the enforceable obligation and that are consistent with the contractual obligations for those projects, or by expending funds to complete the projects. An expenditure made pursuant to this paragraph shall constitute the creation of excess bond proceeds obligations to be paid from the excess proceeds. Excess bond proceeds obligations shall be listed separately on the Recognized Obligation Payment Schedule submitted by the successor agency.

(B) If remaining bond proceeds cannot be spent in a manner consistent with the bond covenants pursuant to subparagraph (A), the proceeds shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

(3) Following the effective date of an oversight board's approval of an enforceable obligation pursuant to this subdivision, as determined pursuant to subdivision (h) of Section 34179, the oversight board's action shall be final and, except for an amendment to an enforceable obligation initiated by a successor agency, may be relied upon by all public and private entities, and may not be modified or reversed by any future action of the Department of Finance.

SEC. 1.5. Section 34191.4 of the Health and Safety Code is amended to read:

34191.4. The following provisions shall apply to any successor agency that has been issued a finding of completion by the Department of Finance:

(a) All real property and interests in real property identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5 shall be transferred to the Community Redevelopment Property Trust Fund of the successor agency upon approval by the Department of Finance of the long-range property management plan submitted by the successor agency pursuant to subdivision (b) of Section 34191.5 unless that property is subject to the requirements of any existing enforceable obligation.

(b) (1) Notwithstanding subdivision (d) of Section 34171, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.

(2) If the oversight board finds that the loan is an enforceable obligation, the accumulated interest on the remaining principal amount of the loan shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund. The loan shall be repaid to the city, county, or city and county in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund. The annual loan repayments provided for in the recognized obligation payment schedules shall be subject to all of the following limitations:

(A) Loan repayments shall not be made prior to the 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this subdivision and paragraph (7) of subdivision (e) of Section 34176 combined shall be equal to one-half of the increase between the amount distributed to the taxing entities pursuant to paragraph (5) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012–13 base year, provided, however, that calculation of the amount distributed to taxing entities during the 2012–13 base year shall not include any amounts

distributed to taxing entities pursuant to the due diligence review process established in Sections 34179.5 to 34179.8, inclusive. Loan or deferral repayments made pursuant to this subdivision shall be second in priority to amounts to be repaid pursuant to paragraph (7) of subdivision (e) of Section 34176.

(B) Repayments received by the city, county, or city and county that formed the redevelopment agency shall first be used to retire any outstanding amounts borrowed and owed to the Low and Moderate Income Housing Fund of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund and shall be distributed to the Low and Moderate Income Housing Asset Fund established by subdivision (d) of Section 34176.

(C) Twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the Low and Moderate Income Housing Asset Fund, after all outstanding loans from the Low and Moderate Income Housing Fund for purposes of the Supplemental Educational Revenue Augmentation Fund have been paid.

(3) Following the effective date of an oversight board's approval of an enforceable obligation pursuant to this subdivision, as determined pursuant to subdivision (h) of Section 34179, the oversight board's action shall be final and may be relied upon by all public and private entities, and, except for an amendment to an enforceable obligation initiated by a successor agency, may not be modified or reversed by any future action of the Department of Finance.

(c) (1) Bond proceeds derived from bonds issued on or before December 31, 2010, shall be used for the purposes for which the bonds were sold.

(2) (A) Notwithstanding Section 34177.3 or any other conflicting provision of law, bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations shall thereafter be expended in a manner consistent with the original bond covenants. Enforceable obligations may be satisfied by the creation of reserves for projects that are the subject of the enforceable obligation and that are consistent with the contractual obligations for those projects, or by expending funds to complete the projects. An expenditure made pursuant to this paragraph shall constitute the creation of excess bond proceeds obligations to be

paid from the excess proceeds. Excess bond proceeds obligations shall be listed separately on the Recognized Obligation Payment Schedule submitted by the successor agency.

(B) If remaining bond proceeds cannot be spent in a manner consistent with the bond covenants pursuant to subparagraph (A), the proceeds shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

(3) Following the effective date of an oversight board's approval of an enforceable obligation pursuant to this subdivision, as determined pursuant to subdivision (h) of Section 34179, the oversight board's action shall be final and, except for an amendment to an enforceable obligation initiated by a successor agency, may be relied upon by all public and private entities, and may not be modified or reversed by any future action of the Department of Finance.

(d) Notwithstanding subdivision (b) of Section 34163, if a successor agency has received a finding of completion, the successor agency may enter into, or amend existing, contracts and agreements, or otherwise administer projects in connection with enforceable obligations approved pursuant to subdivision (m) of Section 34177, if the contract, agreement, or project will not commit new property tax funds, and will not otherwise reduce property tax revenues or payments made pursuant to paragraph (4) of subdivision (a) of Section 34183 to the taxing agencies. This subdivision is declaratory of existing law.

SEC. 2. Section 34191.5 of the Health and Safety Code is amended to read:

34191.5. (a) There is hereby established a Community Redevelopment Property Trust Fund, administered by the successor agency, to serve as the repository of the former redevelopment agency's real properties identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5.

(b) The successor agency shall prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. The report shall be submitted to the oversight board and the Department of Finance for approval no later than six months following the issuance to the successor agency of the finding of completion.

(c) The long-range property management plan shall do all of the following:



(1) Include an inventory of all properties in the trust. The inventory shall consist of all of the following information:

(A) The date of the acquisition of the property and the value of the property at that time, and an estimate of the current value of the property.

(B) The purpose for which the property was acquired.

(C) Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.

(D) An estimate of the current value of the parcel including, if available, any appraisal information.

(E) An estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.

(F) The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.

(G) A description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.

(H) A brief history of previous development proposals and activity, including the rental or lease of property.

(2) Address the use or disposition of all of the properties in the trust. Permissible uses include the retention of the property for governmental use pursuant to subdivision (a) of Section 34181, the retention of the property for future development, the sale of the property, or the use of the property to fulfill an enforceable obligation. The plan shall separately identify and list properties in the trust dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation. With respect to the use or disposition of all other properties, all of the following shall apply:

(A) If the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, the property shall transfer to the city, county, or city and county.

(B) If the plan directs the liquidation of the property or the use of revenues generated from the property, such as lease or parking revenues, for any purpose other than to fulfill an enforceable obligation or other than that specified in subparagraph (A), the

proceeds from the sale shall be distributed as property tax to the taxing entities.

(C) Property shall not be transferred to a successor agency, city, county, or city and county, unless the long-range property management plan has been approved by the oversight board and the Department of Finance.

(d) After approval by the Department of Finance, an action taken pursuant to subparagraph (A) or (B) of paragraph (2) of subdivision (c) that is consistent with the approved plan may not be modified or reversed by future action of the Department of Finance, and may be relied upon by all public and private entities.

SEC. 2.5. Section 34191.5 of the Health and Safety Code is amended to read:

34191.5. (a) There is hereby established a Community Redevelopment Property Trust Fund, administered by the successor agency, to serve as the repository of the former redevelopment agency's real properties identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5.

(b) The successor agency shall prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. The report shall be submitted to the oversight board and the Department of Finance for approval no later than six months following the issuance to the successor agency of the finding of completion.

(c) The long-range property management plan shall do all of the following:

(1) Include an inventory of all properties in the trust. The inventory shall consist of all of the following information:

(A) The date of the acquisition of the property and the value of the property at that time, and an estimate of the current value of the property.

(B) The purpose for which the property was acquired.

(C) Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.

(D) An estimate of the current value of the parcel including, if available, any appraisal information.

(E) An estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.

(F) The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.

(G) A description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.

(H) A brief history of previous development proposals and activity, including the rental or lease of property.

(2) Address the use or disposition of all of the properties in the trust. Permissible uses include the retention of the property for governmental use pursuant to subdivision (a) of Section 34181, the retention of the property for future development, the sale of the property, or the use of the property to fulfill an enforceable obligation. The plan shall separately identify and list properties in the trust dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation. With respect to the use or disposition of all other properties, all of the following shall apply:

(A) (i) If the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, the property shall transfer to the city, county, or city and county.

(ii) For purposes of this subparagraph, the term "identified in an approved redevelopment plan" includes properties listed in a community plan or a five-year implementation plan.

(B) If the plan directs the liquidation of the property or the use of revenues generated from the property, such as lease or parking revenues, for any purpose other than to fulfill an enforceable obligation or other than that specified in subparagraph (A), the proceeds from the sale shall be distributed as property tax to the taxing entities.

(C) Property shall not be transferred to a successor agency, city, county, or city and county, unless the long-range property management plan has been approved by the oversight board and the Department of Finance.

(d) After approval by the Department of Finance, an action taken pursuant to subparagraph (A) or (B) of paragraph (2) of subdivision (c) that is consistent with the approved plan may not be modified or reversed by future action of the Department of Finance, and may be relied upon by all public and private entities.

SEC. 3. (a) Section 1.5 of this bill incorporates amendments to Section 34191.4 of the Health and Safety Code proposed by both this bill and Assembly Bill 662. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 34191.4 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 662, in which case Section 1 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 34191.5 of the Health and Safety Code proposed by both this bill and Assembly Bill 662. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 34191.5 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 662, in which case Section 2 of this bill shall not become operative.







Approved \_\_\_\_\_, 2013

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*Governor*